IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE Nos. 46, 66 & 67 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF WEALTH-TAX

Versus

MISS LATABEN B MISTRY

SHRI PRAFULBHAI M.PATEL
SHRI HARSHADKUMAR N.DALAL

Appearance:
MR BB NAYAK FOR MR MANISH R BHATT for Petitioner No. 1
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 24/09/2001

COMMON JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In Wealth Tax Reference No. 46 of 1987, the question referred for our opinion in respect of assessment year 1975-76 is as under :

"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the goodwill of M/s.Morbi Time Co. has not to be considered for determining the value of the assessee's share of interest in the said firm ?"

2 In Wealth Tax Reference No. 66 of 1987, the question referred for our opinion in respect of assessment years 1976-77 and 1977-78 is as under :

"Whether, on the facts and in the circumstances of the case and in law the Tribunal was right in coming to the conclusion that under Rule 2 of W.T.Rules while valuing the assessee's share in the firm in which the assessee was a partner, the value of goodwill should not be considered ?"

3 In Wealth Tax Reference No. 67 of 1987, the following question has been referred for our opinion :

"Whether, on the facts and in the circumstances of the case and in law the Tribunal was right in coming to the conclusion that under Rule 2 of W.T.Rules while valuing the assessee's share in the firm in which the assessee was a partner, the value of goodwill should not be considered ?"

4 We have heard Mr.B.B.Nayak for the revenue in all these references. Though served, none appears for the respondent- assessee.

5 The learned Counsel for the revenue fairly states that the controversy raised in these references is covered in favour of the assessee by a decision of this Court in case of Harshadkumar Natverlal Dalal vs. C.W.T.,(1996) 219 I.T.R.592. In the aforesaid decision this Court has laid down that the goodwill of the firm will not be considered for determining the value of the partner's share of interest in the partnership firm.

6 In view of the aforesaid decision our answer to question referred in these references is in the

affirmative i.e. in favour of the assessee and against the revenue.

7 The references are disposed of accordingly with no order as to costs.

(M.S.Shah,J) (D.A.Mehta,J)

m.m.bhatt